

1 **SAO**

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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 -vs-

15 ROY PHILLIPS,

16 Defendant

CASE NO: 2:19-mj-00495-BNW

STIPULATION TO CONTINUE

TRIAL DATE

(First Request)

17 IT IS HEREBY STIPULATED AND AGREED, by and between Rachel Kent,
18 Special Assistant United States Attorney, counsel for the United States of America,
19 and Damian R. Sheets, Esq., counsel for defendant, ROY PHILLIPS, that the trial
20 presently scheduled for December 11, 2019, be continued to a time convenient for
21 the court.

22 This Stipulation is entered into for the following reasons:

- 23 1. As part of the investigation in this case, Defense Counsel has recently been
24 retained and is in the process of collecting discovery. After examining
25 such, it is possible that there may be a need to file pre-trial motions or
26 supplements to existing motions.
- 27 2. Counsel for the United States and Defendant are in active negotiations and
28 require more time to present and consider offers of resolution.
3. Defense Counsels will not have sufficient and adequate time to effectively
and thoroughly prepare for trial and present an appropriate defense in
the above-captioned matter on the date currently set for trial.
4. Counsel for the Government has been advised that Defense Counsel
requires additional time to conduct additional investigation in the matter.

1 5. Denial of this request for continuance would deny Defense Counsel
2 sufficient time, on the date currently set for trial, taking into account the
3 exercise of due diligence.

4 6. Furthermore, denial of this request for continuance could result in a
5 miscarriage of justice.

6 7. Defendant is currently out of custody and is not opposed to the
7 continuance.

8 8. This is the first request for a continuance by the current Defense Counsel,
9 after having substituted in as counsel of record.

10 The additional time requested by this Stipulation is excludable in computing
11 the time within which the trial herein must commence, pursuant to the Speedy Trial
12 Act, Title 18, United States Code, Section 3161(h)(7)(A), considering the factors
13 under Title 18, United States Code, Sections 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

14 DATED this 10th day of December, 2019.

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20 /s/ Rachel Kent
21 RACHEL KENT, ESQ.
22 Special Assistant United States Attorney
23 Attorney for Plaintiff

20 /s/ Damian R. Sheets
21 DAMIAN R. SHEETS, ESQ.
22 Nevada Bar No. 10755
23 Attorney for Defendant

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UNITED STATES DISTRICT COURT
DIISTRICT OF NEVADA

UNITED STATES OF AMERICA,
Plaintiff,

-VS-

ROY PHILLIPS,

Defendant

CASE NO: 2:19-mj-00495-BNW

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER

The Court having considered the Stipulation between the Plaintiff, United States of America, by and through Rachel Kent, Special Assistant United States Attorney and Defendant, Damian R. Sheets, Esq., counsel for Defendant ROY PHILLIPS, and makes the following findings of fact and conclusions of law and enters the following order:

FINDINGS OF FACT

Counsel for the Government was advised by Damian R. Sheets, Esq., counsel for Defendant, ROY PHILLIPS, that Defense Counsel needs further time to review discovery and prepare for trial.

1. As part of the investigation in this case, Defense Counsel has recently been retained and is in the process of collecting discovery. After examining such, it is possible that there may be a need to file pre-trial motions or supplements to existing motions.
2. Counsel for the United States and Defendant are in active negotiations and require more time to present and consider offers of resolution.
3. Defense Counsels will not have sufficient and adequate time to effectively and thoroughly prepare for trial and present an appropriate defense in the above-captioned matter on the date currently set for trial.
4. Counsel for the Government has been advised that Defense Counsel requires additional time to conduct additional investigation in the matter.

1 5. Denial of this request for continuance would deny Defense Counsel
2 sufficient time, on the date currently set for trial, taking into account the
3 exercise of due diligence.

4 6. Furthermore, denial of this request for continuance could result in a
5 miscarriage of justice.

6 7. Defendant is currently out of custody and is not opposed to the
7 continuance.

8 8. This is the first request for a continuance by the current Defense Counsel,
9 after having substituted in as counsel of record.

10 **CONCLUSIONS OF LAW**

11 The continuance sought herein is excludable under the Speedy Trial Act, Title
12 18, United States Code, Section 3161(H) and Title 18, United States Code, Section
13 3161(h)(7)(A), when considering the factors under Title 18, United States Code,
14 Sections 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

15 The ends of justice served by granting said continuance outweigh the best
16 interest of the public and defendant in a speedy trial, since the failure to grant said
17 continuance would be likely to result in a miscarriage of justice, would deny defense
18 counsels sufficient time within which to be able to effectively and thoroughly
19 research and prepare for trial and submit for filing any appropriate motions, taking
20 into account the exercise of due diligence.

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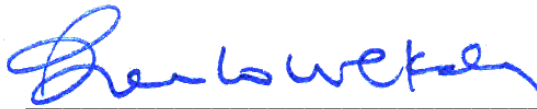
1 **ORDER**

2 Based on the pending Stipulation of the parties and good cause appearing
3 therefore,

4 **IT IS THEREFORE ORDERED** that the trial in this matter currently scheduled
5 for December 11, 2019, at the hour of 8:30 a.m., be vacated and continued to the
6 Wednesday, January 15, 2020, at 8:45 a.m. in Courtroom 3B.

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8 **IT IS SO ORDERED**

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10 **DATED: December 10, 2019**

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14 **BRENDA WEKSLER**
15 **UNITED STATES MAGISTRATE JUDGE**
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